IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITON (LOD) NO.2017 OF 2005

EIH Ltd. & Anr. ..Petitioners.

V/s.

State of Maharashtra & Anr. ..Respondents.

Mr.I.M.Chagla, senior counsel with Bomi Pateil i/b. Mulla & Mulla for petitioners.

Mr.G.W.Mattos, A.G.P. for respondents.

CORAM : V.C. DAGA AND J.P.DEVADHAR, JJ.

DATED : 16TH SEPTEMBER, 2005.

P.C. :-

1. Heard learned counsel on both sides.

2. Rule, returnable forthwith. The learned A.G.P. for respondents waives service.

3. By consent of the parties, the petition is taken up for final hearing.

4. Petitioners have challenged the legality and propriety of the order dated 29th July, 2005 passed by the Profession Tax Officer under section 15(2) of the Professional Tax Act, 1975, inter alia on the ground that the said order is a non speaking order and, therefore, the same is liable to be quashed and set

aside. During the course of arguments, the learned counsel for the petitioners brought to our notice a Division Bench Judgment of this Court dated 22nd July, 2005 in the case of Mrs.Ranjana W/o. Anil Ringay & Ors. V/s. The Government of Maharashtra & Ors., wherein one of the issues considered in the impugned order has been passed in favour of the petitioners. It is an admitted fact that the said Judgment and order dated 22/7/2005 was not brought to the notice of the Profession Tax Officer at the time of passing of the impugned order. In this view of the matter, looking to the consensus between the parties, we quash and set aside the impugned order dated 29th July, 2005 being Exhibit-BB to the petition with a direction to the Profession Tax Officer to pass a speaking order by taking into consideration the Division Bench Judgment of this Court. Learned Counsel for the petitioners states that the petitioners would not raise the plea of limitation before the Professional Tax Officer.

5. Accordingly, the petition is allowed. The impugned order dated 29th July, 2005 is quashed and set aside. The Professional Tax Officer is directed to pass fresh reasoned order in accordance with law, after giving personal hearing to the petitioners.

6. There will be no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)